

**FAIR HOUSING FOR DOMESTIC VIOLENCE
VICTIMS AND LANDLORD PROTECTION ACT**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: LaWanna Lou Shurtliff

LONG TITLE

General Description:

This bill enacts the Fair Housing for Domestic Violence Victims and Landlord Protection Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a renter who is a victim of domestic violence to require the owner to exclude the perpetrator of the domestic violence from common areas of the rental property;
- ▶ allows a renter who is a victim of domestic violence to void a rental agreement;
- ▶ allows a renter who is a victim of domestic violence to remain in the premises under an existing rental agreement despite the owner's eviction of the perpetrator of the domestic violence;
- ▶ describes acceptable forms of documentation of domestic violence;
- ▶ allows an owner to evict a renter who is a perpetrator of domestic violence on the premises; and
- ▶ allows an owner whose renter exercises certain rights under the act to collect security deposits and other amounts owing.

Monies Appropriated in this Bill:

None

Other Special Clauses:



None

Utah Code Sections Affected:

ENACTS:

57-25-101, Utah Code Annotated 1953

57-25-102, Utah Code Annotated 1953

57-25-201, Utah Code Annotated 1953

57-25-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-25-101** is enacted to read:

**CHAPTER 25. FAIR HOUSING FOR DOMESTIC VIOLENCE VICTIMS
AND LANDLORD PROTECTION ACT**

Part 1. General Provisions

57-25-101. Title.

This chapter is known as the "Fair Housing for Domestic Violence Victims and
Landlord Protection Act."

Section 2. Section **57-25-102** is enacted to read:

57-25-102. Definitions.

As used in this chapter:

(1) (a) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a
person who is 16 years of age or older who:

(i) is or was a spouse of the other person;

(ii) is or was living as if a spouse of the other person;

(iii) is related by blood or marriage to the other person;

(iv) has one or more children in common with the other person;

(v) is the biological parent of the other person's unborn child; or

(vi) resides or has resided in the same residence as the other person.

(b) Notwithstanding Subsection (1)(a), "cohabitant" does not include:

(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18
years of age.

(2) "Domestic violence" means the following when committed by one cohabitant against another:

(a) a criminal offense involving violence or physical harm or threat of violence or physical harm;

(b) an attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm; or

(c) the commission or attempt to commit, any of the following offenses:

(i) aggravated assault, as described in Section 76-5-103;

(ii) assault, as described in Section 76-5-102;

(iii) criminal homicide, as described in Section 76-5-201;

(iv) harassment, as described in Section 76-5-106;

(v) telephone harassment, as described in Section 76-9-201;

(vi) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(vii) mayhem, as described in Section 76-5-105;

(viii) a sexual offense, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5a, Sexual Exploitation of Children;

(ix) stalking, as described in Section 76-5-106.5;

(x) unlawful detention, as described in Section 76-5-304;

(xi) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(xii) an offense against property described in Title 76, Chapter 6, Part 1, 2, or 3;

(xiii) possession of a deadly weapon with intent to assault, as described in Section 76-10-507;

(xiv) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(xv) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with any of the domestic violence offenses otherwise described in this Subsection (2); or

(xvi) child abuse as described in Section 76-5-109.1.

(3) "Owner" includes the owner, lessor, or sublessor of a residential rental unit.

(4) "Perpetrator" means a person who commits an act of domestic violence against a cohabitant.

(5) "Protective order" means an order issued pursuant to Title 30, Chapter 6, Cohabitant Abuse Act, subsequent to a hearing, of which the petitioner and respondent have been given notice under Title 30, Chapter 6.

(6) "Rental agreement" means any agreement, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions regarding the use and occupancy of a residential rental unit.

(7) "Renter" means any person entitled under a rental agreement to occupy a residential rental unit to the exclusion of others.

(8) "Residential rental unit":

(a) means a renter's principal place of residence and includes the appurtenances, grounds, and facilities held out for the use of the residential renter generally, and any other area or facility provided to the renter in the rental agreement; and

(b) does not include facilities contained in a boarding or rooming house or similar facility, mobile home lot, or recreational property rented on an occasional basis.

(9) "Victim" means a person who is subjected to domestic violence by a cohabitant.

Section 3. Section **57-25-201** is enacted to read:

Part 2. Fair Housing Provisions

57-25-201. Domestic violence victim's rights.

(1) (a) A renter who is a victim of domestic violence may require the owner to exclude a perpetrator of domestic violence from the renter's residential rental unit if:

(i) the renter provides the owner with documentation of the domestic violence; and

(ii) if the perpetrator of domestic violence is not a renter.

(b) If the perpetrator of domestic violence is a renter, a renter who is a victim of domestic violence may require the owner to exclude the perpetrator from common areas of the property on which the victim's residence is located if:

(i) the victim provides the owner with documentation of the domestic violence; and

(ii) the owner evicts the perpetrator under Section 57-25-202, or the perpetrator otherwise ends the perpetrator's tenancy.

(2) (a) A renter who is a victim of domestic violence may void a rental agreement

without liability if the renter:

(i) provides the owner 14 days advance notice of the renter's intent to void the rental agreement; and

(ii) provides the owner with documentation of the domestic violence.

(b) If a renter voids a rental agreement under Subsection (2)(a), the rental agreement remains in place between the owner and any other renter who is a party to the rental agreement.

(3) A renter who is a victim of domestic violence, and whose cohabitant is evicted under Section 57-25-202, may remain in the residence under the terms specified in any rental agreement between either cohabitant and the owner.

(4) An acceptable form of documentation of the domestic violence under Subsections (2) and (3) is:

(a) a protective order protecting the renter; or

(b) a copy of a police report regarding an act of domestic violence committed against the renter.

Section 4. Section **57-25-202** is enacted to read:

57-25-202. Landlord's rights.

(1) Subject to Subsection 57-25-201(3), a landlord may evict a tenant who is a perpetrator of domestic violence on the premises.

(2) If a rental agreement is voided under Subsection 57-25-201(2), the owner may:

(a) retain funds held as a security deposit under the terms of the rental agreement;

(b) collect unpaid rent for any rental period before the day on which the rental agreement is voided by the renter; and

(c) collect other amounts owing under a voided rental agreement, except that the landlord may not collect:

(i) a rental payment for the voided period; or

(ii) a penalty provided for in the rental agreement for a renter's breach of lease because of early termination.

Legislative Review Note
as of 1-7-05 4:24 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0194

Fair Housing for Domestic Violence Victims and Landlord Protection Act*20-Jan-05**1:38 PM*

State Impact

No fiscal impact.

Individual and Business Impact

There is uncertainty regarding the number of landlords affected therefore it is not possible to project the fiscal cost on business or the public.

Office of the Legislative Fiscal Analyst